

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:)

BERNARD DUANE HERRING, M.D.)

**Physician's and Surgeon's)
Certificate No. C 22358)**

Respondent)

Case No. 800-2019-053861

DECISION AND ORDER

**The attached Stipulated Surrender of License and Order is hereby
adopted as the Decision and Order of the Medical Board of California,
Department of Consumer Affairs, State of California.**

This Decision shall become effective at 5:00 p.m. on June 13, 2019 .

IT IS SO ORDERED June 6, 2019 .

MEDICAL BOARD OF CALIFORNIA

**By: Kimberly Kirchmeyer
Kimberly Kirchmeyer
Executive Director**

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 State Bar No. 116564
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3521
5 Facsimile: (415) 703-5480
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6 *Attorneys for Complainant*

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8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2019-053861

13 **BERNARD DUANE HERRING, M.D.**
14 712 Longridge Rd
Oakland CA 94610-2325

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 Physician's and Surgeon's Certificate No. C 22358

16 Respondent.
17

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
22 of California (Board). She brought this action solely in her official capacity and is represented in
23 this matter by Xavier Becerra, Attorney General of the State of California, by Jane Zack Simon,
24 Supervising Deputy Attorney General.

25 2. Bernard Duane Herring, M.D. (Respondent) is represented in this proceeding by
26 attorney Bret R. Landess of Oium Reyen & Pryor, 220 Montgomery Street Suite 910, San
27 Francisco, CA 94104.

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3. On October 6, 1960, the Board issued Physician's and Surgeon's Certificate No. C 22358 to Bernard Duane Herring, M.D. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2019-053861 and will expire on January 31, 2021, unless renewed.

JURISDICTION

4. Accusation No. 800-2019-053861 was filed before the Board, and is currently pending against Respondent. A copy of Accusation No. 800-2019-053861 is attached as Exhibit A.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2019-053861. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 800-2019-053861, if proven at a hearing, constitute cause for Board action against his Physician's and Surgeon's Certificate.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for Board action.

1 Respondent hereby gives up his right to contest that cause for Board action exists based on those
2 charges.

3 10. Respondent understands that by signing this stipulation he enables the Board to issue
4 an order accepting the surrender of his Physician's and Surgeon's Certificate without further
5 process.

6 **RESERVATION**

7 11. The admissions made by Respondent herein are only for the purposes of this
8 proceeding, or any other proceedings in which the Medical Board of California or other
9 professional licensing agency is involved, and shall not be admissible in any other criminal or
10 civil proceeding.

11 **CONTINGENCY**

12 12. This stipulation shall be subject to approval by the Board. Respondent understands
13 and agrees that counsel for Complainant and the staff of the Board may communicate directly
14 with the Board regarding this stipulation and surrender, without notice to or participation by
15 Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he
16 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board
17 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
18 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
19 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
20 be disqualified from further action by having considered this matter.

21 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
22 copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures
23 thereto, shall have the same force and effect as the originals.

24 14. In consideration of the foregoing admissions and stipulations, the parties agree that
25 the Board may, without further notice or formal proceeding, issue and enter the following Order:

26 **ORDER**

27 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. C 22358, issued
28 to Respondent Bernard Duane Herring, M.D., is surrendered and accepted by the Board.

1. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Board's Decision and Order.

2. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

3. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2019-053861 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

4. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 800-2019-053861 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding between Respondent and the Board.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Bret R. Landess. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 5-22-19 Bernard Duane Herring M.D.
BERNARD DUANE HERRING, M.D.
Respondent

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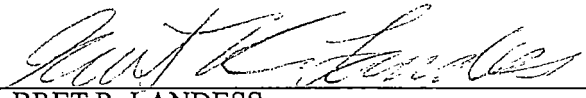
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APPROVAL

I have read and fully discussed with Respondent Bernard Duane Herring, M.D. the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: May 23, 2019


BRET R. LANDESS
Attorney for Respondent

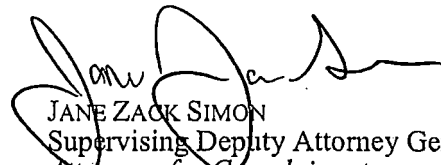
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Medical Board of California of the Department of Consumer Affairs.

Dated: 5/29/19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California


JANE ZACK SIMON
Supervising Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 800-2019-053861

1 XAVIER BECERRA
2 Attorney General of California
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4 Supervising Deputy Attorney General
5 State Bar No. 116564
6 455 Golden Gate Avenue, Suite 11000
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11 Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO May 9 2019
BY K. Wong ANALYST

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 800-2019-053861

13 **Bernard Duane Herring, M.D.**

A C C U S A T I O N

14 712 Longridge Rd
15 Oakland CA 94610-2325

16 Physician's and Surgeon's Certificate
17 No. C 22358,

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs (Board).

23 2. On October 6, 1960, the Medical Board issued Physician's and Surgeon's Certificate
24 Number C 22358 to Bernard Duane Herring, M.D. (Respondent). The Physician's and Surgeon's
25 Certificate was in full force and effect at all times relevant to the charges brought herein and will
26 expire on January 31, 2021, unless renewed.

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4. Section 2227 of the Code authorizes the Board to take action against a licensee by revoking, suspending for a period not to exceed one year, placing the license on probation and requiring payment of costs of probation monitoring, or taking such other action taken as the Board deems proper.

CAUSE FOR BOARD ACTION
(Inability to Practice)

(Inability to Practice)

7. Respondent's license is subject to Board action pursuant to Sections 822 and 2227 of the Code in that Respondent is impaired in his ability to safely practice medicine by virtue of mental or physical illness affecting competency.


WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

2. Revoking, suspending or denying approval of Bernard Duane Herring, M.D.'s authority to supervise physician assistants and advanced practice nurses;

1 3. Ordering Bernard Duane Herring, M.D., if placed on probation, to pay the Board the
2 costs of probation monitoring; and

3 4. Taking such other and further action as deemed necessary and proper.

4
5 DATED: May 9, 2019


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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